

House Study Bill 125

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON MERTZ)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to animal feeding operations, by providing for
2 the enforcement of regulatory provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1405HC 82
5 da/je/5

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1 1 Section 1. Section 455B.175, unnumbered paragraph 1, Code
2 2007, is amended to read as follows:
3 If there is substantial evidence that any person has
4 violated or is violating any provision of this part of this
5 division or chapter 459, subchapter III, chapter 459A, or of
6 any rule or standard established or permit issued pursuant
7 thereto; then:
8 Sec. 2. Section 459.103, subsection 3, Code 2007, is
9 amended by striking the subsection.
10 Sec. 3. Section 459.601, Code 2007, is amended by adding
11 the following new subsection:
12 NEW SUBSECTION. 1A. a. The department and the attorney
13 general shall enforce the provisions of this chapter in the
14 same manner as provided in chapter 455B, division I.
15 b. The department and the attorney general may enforce the
16 provisions of subchapter III in the same manner as provided in
17 section 455B.175.
18 Sec. 4. Section 459.603, Code 2007, is amended to read as
19 follows:
20 459.603 WATER QUALITY VIOLATIONS == CIVIL PENALTY.
21 A person who violates subchapter III shall be subject to a
22 civil penalty which shall be established, assessed, and
23 collected in the same manner as provided in section 455B.109
24 or 455B.191. Any civil penalty collected shall be deposited
25 in the animal agriculture compliance fund created in section
26 459.401.
27 Sec. 5. Section 459A.501, Code 2007, is amended to read as
28 follows:
29 459A.501 GENERAL.
30 The department and the attorney general shall enforce the
31 provisions of this chapter in the same manner as provided in
32 chapter 455B, division I and section 455B.175, unless
33 otherwise provided in this chapter.
34 Sec. 6. DIRECTIONS TO CODE EDITOR. In the 2009 edition of
35 the Iowa Code, the Code editor may do all of the following:
36 1. a. Title the heading for chapter 459, subchapter II,
37 as "air quality".
38 b. Title the heading for chapter 459, subchapter III, as
39 "water quality". In addition, the Code editor may divide
40 chapter 459, subchapter III, into lettered parts, as follows:
41 (1) Part "A" may include sections 459.301 and 459.302 and
42 be designated "general".
43 (2) Part "B" may include sections 459.303 through 459.310
44 and be designated "construction requirements". In addition,
45 the Code editor may divide the part into numbered subparts as
46 follows:
47 (a) Subpart 1 may include sections 459.303 through 459.305
48 and be designated "permits".
49 (b) Subpart 2 may include sections 459.306 through 459.310
50 and be designated "design and construction standards".
51 (3) Part "C" may include sections 459.311 through 459.316
52 and be designated "manure management". In addition, the Code
53 editor may divide the part into numbered subparts as follows:

2 19 (a) Subpart 1 may include sections 459.311 through 459.314
2 20 and be designated "handling".
2 21 (b) Subpart 2 may include sections 459.314A through
2 22 459.316 and be designated "licensure and certification".
2 23 (4) Part "D" may include section 459.318 and be designated
2 24 "exceptions".
2 25 2. Transfer and renumber section 459.317 as section
2 26 459.606 and correct internal references.
2 27 EXPLANATION
2 28 This bill relates to animal feeding operations regulated by
2 29 the department of natural resources, including primarily
2 30 confinement feeding operations under Code chapter 459 and open
2 31 feedlot operations under Code chapter 459A.
2 32 Code section 455B.175 authorizes the department to: (1)
2 33 issue an order (sometimes called a "stop order") against a
2 34 person to desist in a practice which violates state law or to
2 35 take corrective action which is necessary to ensure that a
3 1 violation ceases, (2) issue an order necessary to terminate an
3 2 emergency without immediate notice and hearing, or (3) request
3 3 the attorney general to institute legal proceedings in
3 4 district court. The bill provides that the same provisions
3 5 that apply to confinement feeding operations apply to open
3 6 feedlot operations. It provides coordinating amendments in
3 7 Code chapters 459 and 459A.
3 8 The bill amends Code section 459.603, which currently
3 9 provides that a person who violates subchapter III relating to
3 10 water quality regulations is to be subject to a civil penalty
3 11 under Code section 455B.191 (referring to a court-ordered
3 12 civil penalty not to exceed \$5,000 for each day of a
3 13 violation). Currently, the Code provides that the department
3 14 may enforce Code chapter 459 in the same manner as provided in
3 15 Code chapter 455B, division I. Part of that division includes
3 16 Code section 455B.109 which authorizes the department to
3 17 establish and assess a range of administrative penalties (not
3 18 to exceed \$10,000 for each day of a violation). The bill
3 19 amends Code section 459.603 by referring to Code section
3 20 455B.109.
3 21 The bill provides for heading changes or additions within
3 22 Code chapter 459 and transfers and renumbers a provision
3 23 within the chapter in order to enhance readability.
3 24 LSB 1405HC 82
3 25 da:rj/je/5